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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,271	10/26/2000	Yoichiro Sako	6715/60007	2353
7590	11/16/2004			
Jay H Maioli CooPE & Dunham 1185 Avenue of the Americas New York, NY 10036			EXAMINER TRAN, TONGOC	
			ART UNIT 2134	PAPER NUMBER

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/581,271

Applicant(s)

SAKO ET AL.

Examiner

Tongoc Tran

Art Unit

2134

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

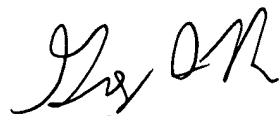
Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-44.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 5. does NOT place the application in condition for allowance because: In response to Applicant's argument to claims 2-4, 7-8, 11 and 23. Applicant's contents that the amended "built-in" memory (claim 2) is not taught by Shear since Shear clearly discloses that it is a videocassette recorder that comprises the external apparatus and a videocassette recorder does not contain a built-in memory means. Examiner notes that Shear's disclosure does not limit the external apparatus to a videocassette recorder, rather Shear teaches that analog devices such as videocassette recorder can be permitted to copy but not the digital device because analog devices are incapable of making multigenerational copies without significantly loss in quality whereas digital devices can make unlimited number of copies without quality loss [0282]. Shear also discloses receiving devices can be different types or different classes of devices (e.g. computer [e.g. 0031] and different rules may be applied to receiving contents depending on the types or classes of the devices, e.g. no copy [e.g. 0054]. Therefore, it implies that means to detect the capability of the system such as built-in memory to make copy would be inherently required. Applicant's contention with regard to Shear's silent on the controlling the transmission of output data to the external apparatus in accordance with the version of the external apparatus (claim 3), copyright related apparatus (claim 4), with the amount of output data that is to be transmitted to the external apparatus (claim 7), controls fee charging process accordance with the type of external apparatus identifying means (claim 11), data apparatus having plurality of interfaces of different types (claim 23) has been explained in previous office action and again fully reconsidered. However, Examiner disagrees with Applicant's argument and therefore maintains the rejection. In response to claim 8, Applicant contents that Shear is "completely silent concerning determining whether the data is being output at a specific speed as in the present invention. Although Shear at al. may employ a high-speed memory, this does not imply controlling the output data based upon a speed of data transmission, as in the present invention". However, the claimed limitation can broadly interpreted to be synchronizing the output transmission in accordance with the speed at which the output data is to be transmitted to the external apparatus, therefore, it is inherently taught by Shear in order for the consumer to view the displayed content.

  
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